IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 10799 of 2007

DATE OF DECISION: 20.7.2007

M/s Bhola Sanitations and others

…Petitioners

Versus

M/s UCO Bank and another

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. Rohit Suri, Advocate,
for the petitioners.

JUDGMENT

M.M. KUMAR, J.

This petition filed under Article 226 of the Constitution prays for quashing notice dated 9.5.2007, issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act') and also restraining the respondent UCO Bank from invoking the provisions of Section 13(4) of the Act. Still further, it has been prayed that declaration be issued that the account of the petitioners could not be classified as NPA on 31.3.2007, which is contrary to the guidelines issued by the Reserve Bank of India.

Somewhere in the year 2003, petitioner No. 1 firm has availed Cash Credit Limited (CCL) by hypothecation from the respondent UCO Bank to the extent of Rs. 60 lacs. The petitioner firm has mortgaged the property which was located at Amritsar. A notice under Section 13(2) of the Act was issued on 7.11.2005 (P-1). The proprietor of the petitioner firm, namely, Shri Maninder Pal Singh sent reply to the notice on 26.12.2005 (P-2) that on account of death of his wife and ill health he was not able to look after the business. He requested for time to deposit 10% of the amount. On 24.1.2006, the petitioner deposited a sum of Rs. 5 lacs by cheque (P-3). On 30.3.2006, he deposited a further amount of Rs. 3 lacs and on 31.3.2006 another sum of Rs. 35,000/- was deposited. The petitioner also sought permission from the respondent UCO Bank for conversion of the aforementioned building premises into a hotel and for review of cash credit limit so as to secure the same against a collateral security of the property so mortgaged equitably with the respondent bank. Again, somewhere in May 2006, a proposal was submitted by the petitioner for converting the amount into a term loan and further enhancement of cash credit limit to Rs. 114 lacs, which could be secured against the hotel premises crystallized as M/s B.S. Residency, which was valued at Rs. 195 lacs by the certified valuer. However, the respondent UCO Bank issued notice under Section 13 (2) of the Act raising demand for payment of Rs. 62,11,922/- (P-12). The petitioner sent a reply on 22.6.2007, which was duly acknowledged and replied back by the respondent UCO Bank on

29.6.2007 (P-14). The petitioner has claimed that its account has been wrongly classified as Non Performing Account (NPA) in contravention of the guidelines framed by the Reserve Bank of India.

At the outset we asked Mr. Rohit Suri, learned counsel for the petitioners to deposit 1/3rd of the amount as per the demand of the respondent UCO Bank so as to establish the bona fide of the petitioners. However, Shri Maninder Pal Singh, Proprietor of the petitioner No. 1 firm, who is present in the Court through his counsel, offered to deposit a meager sum of Rs. 5 lacs. However, we did not approve the deposit of such a meager sum because the petitioners in any case would not be entitled to any one time settlement because according to the petitioner the assets of the firm could not be classified as non-performing. The petitioner firm has converted its assets by building a hotel, which is worth Rs. 195 lacs as per the valuation report submitted by the petitioners themselves. In such a case, it cannot be concluded that the petitioner are not in a position to pay and, therefore, the financial institution must enter into some settlement. Even otherwise, the bona fide of the petitioners have not been established.

In view of the above, we do not find any merit in the petition and the same is dismissed summarily.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

July 20, 2007
Pkapoor